

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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2009 DEC -9 P 1:23

Edwin Reeves Hazel, III, #09030217,)
formerly #05081607,)

Plaintiff,)

v.)

Sgt. R. Sanders,)

Defendant.)

Civil Action No. 0:09-2543-SB

ORDER

This matter is before the Court upon the Plaintiff's pro se complaint, filed pursuant to 42 U.S.C. § 1983. By local rule, the matter was referred to a United States Magistrate Judge for preliminary determinations.

On November 2, 2009, Magistrate Judge Paige J. Gossett issued a report and recommendation ("R&R") analyzing the matter and recommending that the Court dismiss the Plaintiff's complaint without prejudice and without issuance and service of process for failure to exhaust administrative remedies. Attached to the R&R was a notice advising the Plaintiff of his right to file specific, written objections to the R&R within ten days of being served with a copy. On November 18, 2009, the Plaintiff filed a one-page document captioned, "amended complaint." In this document, the Plaintiff asserts that he has again been denied a shower and exercise opportunities; however, nowhere in this filing does the Plaintiff respond to the R&R or assert that this matter should not be dismissed for failure to exhaust administrative remedies. On November 25, 2009, the Plaintiff apparently called the Clerk of Court and stated that Defendant Sanders had refused to mail his correspondence to the Court. Then, on December 8, 2009, the Plaintiff filed objections,

wherein he states that it is his second attempt to file objections, and he claims that he has turned in the necessary grievance forms but that he has not received any response because Defendant Sanders screens those forms and does not turn over any forms that involve her.

After review, the Court believes that further inquiry is necessary into whether the Plaintiff has exhausted his administrative remedies insofar as he has alleged that the Defendant is mishandling his grievance forms. Accordingly, the Court declines to adopt the R&R at this time, and instead, it is

ORDERED that the matter be remanded to the Magistrate Judge for further proceedings consistent with this order.

IT IS SO ORDERED.

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The Honorable Sol Blatt, Jr.
Senior United States District Judge

December 8, 2009
Charleston, South Carolina